

**TCG**

Teleport Communications Group  
Two Teleport Drive  
Staten Island, NY 10311  
Tel: 718.983.2000  
Fax: 718.983.2147

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October 8, 1996

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Federal Communications Commission  
Office of Secretary

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William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Non-Accounting Safeguards  
CC Docket No. 96-149

Dear Mr. Caton:

Teleport Communications Group Inc. ("TCG") hereby gives notice of an ex parte presentation in the above-referenced proceeding. On October 8, 1996, Teresa Marrero of TCG sent the attached letter by hand-delivery to Chairman Hundt, Commissioner Quello, Commissioner Chong and Commissioner Ness. The letter was also hand-delivered to Michelle M. Carey, Radhika V. Karmakar, Cheryl E. Leanza and Carol E. Matthey of the Common Carrier Bureau.

Very truly yours,

*Teresa Marrero*  
Teresa Marrero

Attachment

cc: Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Michelle M. Carey  
Radhika V. Karmakar  
Cheryl E. Leanza  
Carol E. Matthey

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Regulatory Affairs

Teleport Communications Group  
Two Teleport Drive, Suite 300  
Staten Island, NY 10311-1004  
Tel: 718.355.2000  
Fax: 718.355.4876

October 8, 1996

Ms. Regina Keeney, Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW Room 500  
Washington, DC 20554

Re: Non-Accounting Safeguards  
CC Docket No. 96-149

Dear Ms. Keeney:

TCG submits this letter to reiterate its concerns regarding the provision of local exchange services by affiliates of Regional Bell Operating Companies ("RBOCs") and its effect on local competition, notwithstanding the restrictions of Sections 271 and 272 of the Communications Act. TCG expressed its views on this issue in its Comments and Reply Comments in the above-captioned proceeding. In those submissions, TCG explained that some RBOCs had embarked upon a strategy of having affiliates apply to state commissions to become local exchange service providers. The RBOCs would then have these affiliates ultimately be the source of "one-stop shopping" for local and in-region, interLATA service, thereby circumventing the intent of the separate affiliate requirements under Sections 271 and 272 of the Telecommunications Act of 1996 ("1996 Act"). By this letter, TCG provides additional information on this issue.

TCG also wishes to emphasize its position that the Commission's proposal to implement the Open Network Architecture ("ONA") reporting requirements for Section 271 and 272 enforcement purposes,<sup>1</sup> are inadequate for addressing the problem posed by an affiliate providing both local exchange service and in-region, interLATA service. Those reporting requirements also do not provide an adequate safeguard between the RBOC and its affiliate that provides in-region, interLATA service.

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<sup>1</sup> See Implementation of the Non-Accounting Safeguards of Sections 271 and 272, CC Docket No. 96-140, Notice of Proposed Rulemaking, FCC 96-308 (rel. July 18, 1996) at ¶ 75; see also Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 3084 (1990).

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**I. SEPARATE AFFILIATE REQUIREMENTS MUST BE STRINGENTLY APPLIED**

TCG's principal reason for supporting the adoption of stringent non-accounting safeguards for RBOC provision of interLATA services is the possibility that affiliates created to provide these services will circumvent the separations requirements of the Telecommunications Act of 1996 ("1996 Act"). TCG believes that some RBOCs have already taken steps toward creating affiliates that will provide local exchange services under the auspices of offering pure "resale" services while also providing in-region, interLATA services. The creation of such an integrated RBOC affiliate would subvert the separate affiliate provisions of Section 272 of the 1996 Act. As described below, it is difficult to cast any telecommunications provider, especially one that also owns facilities for the provision of telecommunications services, as a pure reseller. The cunning use of corporate affiliate relationships and differing state rules on the definition of a reseller make this a difficult distinction to draw.

**A. RBOCs HAVE ALREADY SHOWN THAT THEY WILL USE FACILITIES-BASED AFFILIATES TO GAIN A COMPETITIVE ADVANTAGE IN THE LOCAL EXCHANGE SERVICE MARKET**

As TCG reported in its Comments filed in this proceeding, two incumbent carriers, Pacific Bell and Ameritech have already sought operating authority for affiliate entities to provide integrated local, intraLATA, and interLATA services.<sup>2</sup> The primary argument these RBOCs make in support of the affiliates is the need to meet the competitive challenge of new entrants in the local market that are already able to package such services for customers. However, these companies still retain control of bottleneck facilities that are essential to competitors' operations; the RBOCs will remain in this competitively superior position for the foreseeable future. Therefore, TCG is concerned that the unauthorized transfer of these bottleneck facilities to an unregulated entity would effectively quell competition in the local market. An affiliate entity that offers both resale and facilities-based operating authority presents the risk that facilities will be transferred to it with virtually no regulatory oversight.

For example, Pacific Bell's affiliate, Pacific Bell Communications ("PBCom"), submitted an application to the California Public Utilities Commission ("CPUC") "to provide a full

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<sup>2</sup> TCG Comments, CC Docket No. 96-149 at 3-6.

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range of facilities-based and resold telecommunications services including, without limitation, interLATA, intraLATA, and local exchange telecommunications services throughout the State of California" immediately following the passage of the Act and prior to any finding of compliance with the Act's competitive checklist.<sup>3</sup> As the California Telecommunications Coalition expressed in comments before the CPUC, the true separation of an affiliate from its parent is called into question when the corporate headquarters of both companies have the same address, when the affiliate has few or no employees, and when the credit of the affiliate is not sufficiently established.<sup>4</sup>

Like PBCom, Ameritech's Illinois affiliate, Ameritech Communications of Illinois, Inc. ("ACII") proposes to offer an integrated package of local, toll, and long distance services. However, unlike PBCom, ACII's relationship to Ameritech is obscured by multiple layers of subsidiaries. The elaborate affiliate structure that Ameritech has created in Illinois is indicative of the ability of an RBOC to escape compliance with the separate affiliate safeguards in the Act when any level of local facilities-based services will be provided. Ameritech initially filed an application in Illinois for facilities-based local exchange authority on behalf of Ameritech Communications Inc. ("ACI").<sup>5</sup> After significant concerns were raised by TCG and others

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<sup>3</sup> Application of Pacific Bell Communications for Certificate of Public Convenience and Necessity to Provide InterLATA, IntraLATA and Local Exchange Telecommunications Services, March 5, 1996 at 2 (emphasis added) (attached as Exhibit 1, exhibits excluded).

<sup>4</sup> California Telecommunications Coalition and Association of Directory Publishers Joint Protest to Application of Pacific Bell Communications for Certificate of Public Convenience and Necessity to Provide InterLATA, IntraLATA and Local Exchange Telecommunications Services, April 5, 1996 at 21-22 (attached as Exhibit 2).

<sup>5</sup> See Application for Certificate of Service Authority to Provide Interexchange and Local Exchange Telecommunications Services Within The State of Illinois Pursuant to Sections 13-403 and 13-404 and Exchange Service Pursuant to Section 13-405 of the Public Utilities Act, Docket 95-0443, Motion of Ameritech Communications of Illinois, Inc. For Leave to Amend Its Amended Application (July 11, 1996) at 1 (attached as Exhibit 3).

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regarding the scope of ACI's application, Ameritech twice amended its application, first to replace the original applicant (ACI) with ACII (a subsidiary of ACI)<sup>6</sup> and next to limit the authority requested by ACII in Ameritech's service territory to resale authority.<sup>7</sup>

By grant of this application — even as subsequently amended — ACII will be able to transact with an unregulated entity, ACI, in order to provide services. The practical effect is to remove such transactions from the Commission's scrutiny in its efforts to enforce Section 272 separation requirements. ACI, which has already received a waiver from the federal rule barring an RBOC affiliate from owning facilities for the provision of landline telephone service,<sup>8</sup> will be the primary supplier of facilities to ACII.<sup>9</sup> Normally, resellers obtain facilities from certificated carriers that also offer services to end users. However, according to an Ameritech witness before the Illinois Commerce Commission, ACI does not have authority to provide either local exchange or interexchange services in Illinois nor does it intend to obtain such authority.<sup>10</sup> Therefore, because ACI neither provides telecommunications services to end users in Illinois nor offers any of the services listed in Section 272(a)(2) of the 1996 Act, ACI is not subject to the non-accounting safeguards required by Section 272 or imposed by the Commission.

In addition to the proposed transfer of facilities, Ameritech has already engaged in providing funds for its new affiliate. In a similar application proceeding before the Michigan Public Service

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<sup>6</sup> Id. at 2.

<sup>7</sup> Id.

<sup>8</sup> Petition of Ameritech Communications, Inc. for Partial Waiver of Section 22.903 of the Commission's Rules, CWD 95-14, Memorandum Opinion and Order, FCC 96-339 (rel. August 22, 1996).

<sup>9</sup> Applications for Certificate of Service Authority to Provide Interexchange Service and Local Exchange Telecommunications Services within the State of Illinois Pursuant to Sections 13-403 and 13-404 and Exchange Service Pursuant to Section 13-405 of the Public Utility Act, Docket No. 95-04430, Transcript of Testimony Record at 392 ("Transcript").

<sup>10</sup> Id. at 632, 634.

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Commission, ACI's Vice President of Finance testified that in Michigan alone, Ameritech's absorption of ACI expenses is, at a minimum, \$90 million.<sup>11</sup> TCG's expert witness in this case characterized the arrangement as "a textbook case of cross-subsidy," explaining that no written agreement memorializes this debt funding and that no payback schedule has been set.<sup>12</sup>

Thus, Ameritech has created an unregulated and uncertificated corporation to acquire local exchange and interexchange facilities on behalf of its regulated resale affiliate ACII. The financial reporting, auditing and arms-length transactions requirements under Section 272 will not reach any of the resale or facilities exchange transactions that may take place between ACI and its service affiliate ACII. Further, because there will be no direct transactions between Ameritech and ACII, the relationship between these two regulated entities will be obscured.

If such an obfuscation of the relationship between RBOCs and their affiliates is allowed, the future of the competitive local exchange market will be jeopardized. In keeping with the intent of the 1996 Act to promote local competition, RBOC affiliates should not provide both in-region interLATA services and local exchange services until local exchange competition sufficiently replaces RBOC control of local bottleneck facilities.

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<sup>11</sup> Application of Ameritech Communications, Inc. for a License to Provide Basic Local Exchange Service to Ameritech Michigan and GTE North, Inc. Exchanges in Michigan, Case No. U-11053, Transcript at 425-27 (April 25, 1996).

<sup>12</sup> Application of Ameritech Communications, Inc. for a License to Provide Basic Local Exchange Service to Ameritech Michigan and GTE North, Inc. Exchanges in Michigan, Case No. U-11053, Direct Testimony of Dr. Paul Teske at 12. The Michigan PSC has subsequently granted ACI's application; however, its approval was based on the presumption that "compliance with the competitive checklist is a prerequisite for ACI to be able to offer interLATA service." Application of Ameritech Communications, Inc., Case No. U-11053, Order (August 28, 1996) at 27 (attached as Exhibit 4).

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**B. DIFFERING STATE DEFINITIONS OF "RESALE" FURTHER OBSCURES  
THE EXTENT OF THE RBOC AFFILIATE THREAT TO LOCAL  
COMPETITION**

Even in cases where the affiliates have been authorized to provide local exchange service as a reseller, but have access to or ownership of facilities in conjunction with the provision of in-region, interLATA service, the affiliates may use facilities to provide local exchange service.<sup>13</sup> Indeed, in some states the definition of "resale" is flexible enough to allow entities certificated as resellers also to offer service using their own facilities. In Illinois, for example, the definition of resale means "the offering or provision of telecommunications service primarily through the use of services or facilities owned or provided by a separate telecommunications carrier."<sup>14</sup>

The combination of aggressive RBOC efforts and permissive state definitions blurs the distinction between resellers and facilities-based providers, thereby weakening the effect of the structural separation provisions, as well as the Commission's prohibition of facility ownership by RBOC affiliates.<sup>15</sup> The intent of the separate affiliate requirements is to assure that the transfer of assets from a monopoly, RBOC parent to its affiliate is conducted at an arm's length and nondiscriminatory basis. It is vital that these provisions operate as clearly intended under the 1996 Act, or the developing competition in the local market will be threatened.

**II. ONA REPORTING REQUIREMENTS ARE NOT SUFFICIENT FOR  
ENFORCEMENT OF SEPARATE AFFILIATE REQUIREMENTS**

TCG is also interested in the adoption of objective reporting requirements for the efficient and effective enforcement of Sections 271 and 272 of the 1996 Act. In general, complaints related to compliance with the competitive checklist and agreements negotiated under Section 252 of the Act are expected to be fact-based. Adopting the simple, streamlined reporting requirements, as proposed herein by TCG, will hasten the resolution

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<sup>13</sup> Transcript at 386-87.

<sup>14</sup> 220 ILCS 5/13-211 (emphasis added).

<sup>15</sup> See 47 C.F.R. 22.903(a).

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of complaints by compiling relevant factual information — a goal that is in the best interests of all parties.

One reporting requirement model that has been suggested is the model adopted in the ONA proceeding.<sup>16</sup> Under ONA, RBOCs are required to report on four measurements of installation and maintenance service quality for numerous facility categories: 1) total orders; 2) due dates missed; 3) percentage missed; and 4) average service interval.<sup>17</sup>

While these reporting requirements may have been sufficient for developing competition in the enhanced services marketplace, they are insufficient for promoting a competitive local exchange services market. The number of facility categories for which measurements must be taken does not correspond with the features of basic ILEC-CLEC interconnection.<sup>18</sup> Further, the service quality for installation and maintenance activities cannot be effectively monitored using the same units of measurement. For instance, maintenance problems are better measured by total repair time than by an arbitrary due date. Maintenance service quality is an ongoing need that is not easily marked at a certain point in time, and thus, line availability and line failure rates are important

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<sup>16</sup> See Implementation of the Non-Accounting Safeguards at  
¶ 75.

<sup>17</sup> Open Network Architecture Plans, 5 FCC Rcd at 3096-97.

<sup>18</sup> The ONA reporting requirements divides categories as follows:

Installation

1. Number of Installations
2. Average Service Interval
3. Percentage Installations on Time

Maintenance

1. Number of Repairs
2. Mean Time to Repair
3. Number of Failures
4. Failure Frequency Percentage
5. Percentage Availability



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measurements of the quality of telecommunications service. However, these are not measured by the ONA requirements.

In its ongoing negotiations and arbitrations for interconnection, TCG has proposed a realistic and manageable reporting requirement standard from which incumbent LECs (including RBOCs) and competitors can objectively measure interconnection agreement compliance.<sup>19</sup> To ensure that incumbent LECs treat interconnecting competitors in a non-discriminatory manner, the Commission should require that they file with the Commission, and provide to its competitors, comparative quarterly reports that describe its performance in providing interconnection facilities to competitors and compare its performance in provisioning its own requirements.

Specifically, the Commission should require in the quarterly reports the following information: (1) as measured from the time of the request to deliver service, the length of time taken to provide interconnection arrangements to itself, to its affiliates, and to its competitors; and (2) objective performance information including mean time to repair, service availability standards, and similar performance criteria with regard to interconnection arrangements that the incumbent LEC provides to itself, to its affiliates, and to its competitors. In addition, TCG proposes only six categories (DS0, DS1, DS3, Multiplexing, CLEC Trunking, and Unbundled Loops) on which incumbent carriers should report rather than the multi-layered, detailed facility categories required under ONA.

This information must be provided on an exchange area-by-exchange area basis for each CLEC since statewide data will average and misrepresent the different market-by-market performance of the incumbent LEC in meeting its competitor's needs. The incumbent LEC should provide information with respect to all interconnecting competitive LECs. The incumbent LEC should also report information separately for: all residential customers; business customers generally; the ten largest business customers; and carrier customers in each exchange area. The cost of complying with these proposed reporting requirements should be accounted as an ordinary cost of doing business; RBOCs should not be allowed to charge

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<sup>19</sup> See Petition for Arbitration to Establish an Interconnection Agreement with Bell Atlantic, Case No. 8731 (Maryland Public Service Commission), TCG Initial Comments (September 5, 1996) (attached as Exhibit 5).

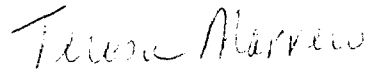
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competitors for the cost of demonstrating that they are complying with their legal obligation.

Without the proposed comparative reporting, it will be difficult for competitive LECs to determine if the incumbent LEC is providing them with fair and nondiscriminatory interconnection. These reporting measurements can be easily and objectively produced by the incumbent carrier and analyzed by the carriers involved in a complaint. These two critical factors will make any carrier compliance review by the Commission an efficient and effective one.

TCG urges the Commission to consider in this proceeding the information provided by TCG in its Comments and Reply Comments, and further supported by this letter. RBOC affiliate activities must be carefully monitored for anticompetitive activities. In addition, monitoring mechanisms, such as reporting requirements, must be devised so that they correspond with the service needs of a competitive local exchange carrier that is dependent on the service performance of an incumbent local exchange carrier.

Sincerely,



Teresa Marrero

Attachments

cc: Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Michelle M. Carey  
Radhika V. Karmakar  
Cheryl E. Leanza  
Carol E. Matthey



**BEFORE THE PUBLIC UTILITIES COMMISSION**  
**OF THE**  
**STATE OF CALIFORNIA**

Application of Pacific Bell Communications )  
for a Certificate of Public Convenience )  
and Necessity to Provide InterLATA, )  
IntraLATA and Local Exchange )  
Telecommunications Services Within the )  
State of California )  
\_\_\_\_\_ )

Application No. \_\_\_\_\_

**APPLICATION OF PACIFIC BELL COMMUNICATIONS  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY TO PROVIDE INTERLATA, INTRALATA  
AND LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES.**

Pacific Bell Communications ("PB Com") submits this Application for a Certificate of Public Convenience and Necessity, under Public Utilities Code Section 1001, to provide facilities-based and resold interLATA, intraLATA, and local exchange telecommunications services in the State of California. Applicant seeks the full extent of authority allowed by the Commission as a non-dominant carrier.

PB Com submits the following information in support of its Application:

1. Name and Address of Petitioner [Rule 15(a)]: Applicant's legal name is Pacific Bell Communications. Applicant is a California corporation with its principal place of business located at 140 New Montgomery St., Room 809, San Francisco, California 94105. Applicant is a wholly owned subsidiary of Pacific Telesis which has

provided telecommunications services to residents of the State of California since 1906.

2. Identity of Pacific Bell Communications: Articles of Incorporation [Rule 16(a)]: A certified copy of Applicant's Articles of Incorporation is attached as Exhibit A.

3. Communications [Rule 15(b)]: Correspondence and other communications with regard to this Application should be addressed to:

David Discher, Senior Counsel  
Pacific Telesis Legal Group  
140 New Montgomery Street  
Room 1510  
San Francisco, CA 94105  
(415) 542-7747

and

William H. Booth  
Jackson Tufts Cole & Black, LLP  
650 California Street  
San Francisco, CA 94108-2613  
(415) 433-1950

4. Description of Service [Rule 18(a)]: Applicant seeks authority to provide a full range of facilities-based and resold telecommunications services including, without limitation, interLATA, intraLATA, and local exchange telecommunications services throughout the State of California.

5. Service Area [Rule 18(c)]: Applicant seeks authority to provide both facilities-based and resold telecommunications services throughout the State of California, except in those areas where local exchange competition is not authorized. A map of Applicant's proposed service territory is attached as Exhibit B.

6. Financial Responsibility [Rules 17 and 18(g)]: PB Com is a wholly owned subsidiary of Pacific Telesis. Attached as Exhibit C are the most recently available

financial statements for Pacific Telesis. Exhibit D is a letter from Pacific Telesis confirming that it will fund PB Com's financial requirements during the first year of its operation, and that it will provide the \$540,000 of uncommitted cash required by D.90-08-032.<sup>1</sup> These exhibits demonstrate that PB Com has the financial resources necessary to carry out its responsibilities as a provider of telecommunications services.

7. Construction [Rules 18(a), 18(d), and 18(f)]: Applicant proposes to provide telecommunications services either by means of facilities which will be constructed or by means of facilities that will be provided by other certificated carriers, or both. PB Com may construct one or more switches provided by a major vendor or vendors and may lay cable in public rights of way. The switches will be housed in commercial buildings and the cable will be placed in existing structures. The proposed construction will not be disruptive or disturbing to residential or business communities. All necessary permits will be obtained from the appropriate local governmental agencies. PB Com will comply with all health and safety regulations and will obtain any required health and safety permits. Because we have not yet determined the extent of the facilities we will build, we are presently unable to estimate construction costs.

8. Proponent's Environmental Assessment [Rule 17.1]: Applicant has provided a Proponent's Environmental Assessment ("PEA") as Exhibit E.

9. Customers [Rule 18(j)]: The projected number of customers for PB Com's proposed service is attached as Exhibit F.

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<sup>1</sup> D.90-08-032 required a showing of cash or cash equivalent resources equal to \$400,000. This amount was to be escalated by 5% per year beginning in 1991.

10. Pacific Bell Communications Qualifications [Rule 15(c)]: The information contained in this Application and the attached exhibits demonstrate PB Com's ability to provide high quality and economical telecommunications services to California subscribers. Biographies of key officers are attached as Exhibit G.

11. Public Convenience and Necessity [Rule 18(e)]: This Commission and the California State Legislature have both encouraged the establishment and expansion of competitive telecommunications services. The CPUC's infrastructure report recommends increased competition in both the toll and local exchange markets. Section 709.2 of the Public Utilities Code, adopted by the California State Legislature in 1994, directs the Commission to authorize full competition for interLATA services. Approval of this Application will bring increased competition to these markets, as PB Com will provide competitive telecommunications services to residents of the State of California either through the construction of new facilities or through the resale of the services of other carriers, or both.

The *Telecommunications Act of 1996* permits affiliates of Bell Operating Companies to provide interLATA services, provided they are able to meet a series of requirements, principally involving the availability of access and interconnection arrangements to companies desiring to enter the intraLATA market. Included in those requirements is a "Competitive Checklist" for evaluation of the access and interconnection arrangements to be made available by local exchange companies to non-affiliated companies.

The Federal Communications Commission ("FCC") is charged with the responsibility of evaluating the compliance with this checklist in an expeditious fashion.

Its process is currently underway. PB Com understands that the FCC is presently developing rules and procedures to carry out its mandate with respect to the entry of the BOCs and their affiliates into the interLATA markets. The FCC is required by statute to have these rules in place in 180 days after February 8, 1996 and it is obligated to process applications to enter the interLATA market within 90 days after an application is filed. This federal process should, therefore, result in approval for our entry into the interLATA market late in 1996 or early in 1997. We also believe that the public interest will be served if we simultaneously receive authority from this Commission to enter the interLATA market, as well as other telecommunications markets in California.

The California legislation, Section 709.2 of the Public Utilities Code, sets forth its own list of requirements which must be met before such interLATA authority may be granted by the Commission. It contains four principal requirements. First, competitors must be afforded "fair, nondiscriminatory and mutually open access" to exchanges, including the fair unbundling of exchange facilities. This evaluation is currently underway in the Commission's OANAD proceeding, with procedural dates having been set to result in an October 1996 decision. PB Com expects that this requirement of Section 709.2 will be met in the OANAD proceeding and that the Commission will be able to reference that compliance in this Application.

Second, the Commission must determine that there is no anticompetitive behavior by the local exchange company, including "unfair use of subscriber information or unfair use of customer contacts" generated by the provision of local exchange service. Existing affiliate transaction rules require payment of a referral fee



when Pacific Bell successfully sells an affiliate's service. PB Com will comply with these rules.

Third, the Commission must determine that there is no improper cross-subsidization of interLATA service by the local exchange carrier by requiring the maintenance of separate accounting records. PB Com will demonstrate that its structural separation from its affiliate, Pacific Bell, goes well beyond the requirement for separation of accounting records. This structural separation, in addition to its application of the Commission's existing affiliate transaction rules, will meet this test.

Finally, Section 709.2 provides that the Commission must determine that there is "no substantial possibility of harm to the competitive intrastate interexchange market". These words are taken from the Modified Final Judgment and have been interpreted by the federal courts. In U.S. v. Western Elec. Co., 900 F.2d 283, 296 (1990), the District of Columbia Circuit stated that these words mean that "unless the entering BOC [PB Com] will have the ability to raise prices or restrict output in the market it seeks to enter" there can be no possibility that it can use its monopoly power to impede competition. PB Com will demonstrate that because it will have no market share when it enters the interLATA market, and it therefore will have no ability to raise prices or restrict output in that market. Indeed, its presence in the interLATA market will add to the level of competition, will increase customer choice and options, will tend to lower prices in that market, and will thus provide clear benefits to California consumers. PB Com will meet this test in any hearings on its Application.

12. Tariffs [Rule 18(h)]: PB Com's proposed tariffs are attached as Exhibit H. Since PB Com has not yet seen the Commission's decision on "resale", the proposed

prices are tentative.

13. Statement Under General Order No. 104-A [Rule 18(i)]: There are no matters to be reported under General Order 104-A.

14. Certificate of Service [Rule 18(b)]: Attached to this Application is a Certificate of Service listing the entities and individuals with which PB Com may compete. Copies of this Application have been served on these entities and individuals. PB Com requests that the Commission grant a waiver of the rule 18(b) requirement that petitioner certify service on the "cities or counties within which service will be rendered". As PB Com requests authority to serve in all areas of California where competition is authorized, provision of notice to each city and county would be unduly burdensome.

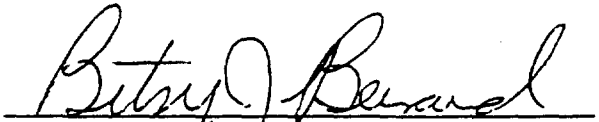
15. Demonstration of Compliance with Rules: Exhibit I to this application demonstrates our compliance with Commission rules governing applications for CPCNs.

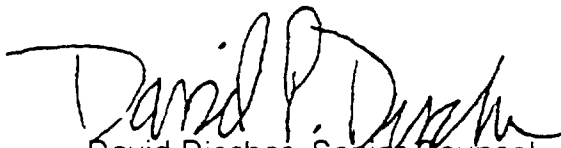
16. Request for Non-Dominant Treatment: PB Com has been established as a separate Pacific Telesis subsidiary to comply with provisions in the *Telecommunications Act of 1996*. As a separate subsidiary, PB Com will start business with no existing customer base and thus, no market share. As it begins offering service under this arrangement, PB Com will clearly be a nondominant participant in this industry. Applicant requests the same regulatory treatment for its proposed telecommunications services as is afforded other non-dominant carriers, including exemption from the requirements of Public Utilities Code Sections 816-830 and 851-855.

**Wherefore**, PB Com respectfully requests that:

1. It be granted authority to provide a full range of facilities-based and resold telecommunications services including, without limitation, interLATA, intraLATA, and local exchange telecommunications services throughout the State of California.
2. It be granted such other and further relief as the Commission deems appropriate.

Signed at San Francisco, California, this fifth day of March, 1996.

  
Betsy J. Bernard, President  
Pacific Bell Communications

  
David Discher, Senior Counsel  
Pacific Telesis Legal Group  
140 New Montgomery St., Rm. 1510  
San Francisco, CA 94105  
(415) 542-7747

Attorneys for Pacific Bell  
Communications

  
William H. Booth  
Jackson, Tufts, Cole & Black, LLP  
650 California Street  
San Francisco, CA 94108  
(415) 433-1950

Attorneys for Pacific Bell  
Communications

## **Exhibits**

- |            |   |
|------------|---|
| Exhibit A: | PB Com Articles of Incorporation                          |
| Exhibit B: | PB Com Map of Proposed Service Area                       |
| Exhibit C: | SEC Forms 10-K and 10-Q of Pacific Telesis Corporation    |
| Exhibit D: | Letter from Pacific Telesis Confirming Funding for PB Com |
| Exhibit E: | Proponent's Environmental Assessment                      |
| Exhibit F: | PB Com Projected Number of Customers                      |
| Exhibit G: | PB Com Biographical Information of Key Employees          |
| Exhibit H: | PB Com Proposed Tariffs                                   |
| Exhibit I: | Demonstration of Compliance                               |



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**Application of Pacific Bell Communications  
for a Certificate of Public Convenience and  
Necessity to Provide InterLATA, IntraLATA  
and Local Exchange Telecommunications  
Services Within the State of California,**

**Application No. 96-03-007**

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**California Telecommunications Coalition and  
Association of Directory Publishers Joint  
Protest to Application of Pacific Bell  
Communications for a Certificate of Public  
Convenience and Necessity to Provide  
interLATA, intraLATA and Local Exchange  
Telecommunications Services**

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**McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP  
TERRY J. HOULIHAN  
GREGORY BOWLING  
Three Embarcadero Center  
San Francisco, California 94111  
Telephone: (415) 393-2000  
Fax: (415) 393-2286**

**Attorneys for Protestant  
AT&T Communications of California, Inc.**

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